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Report of Committee on
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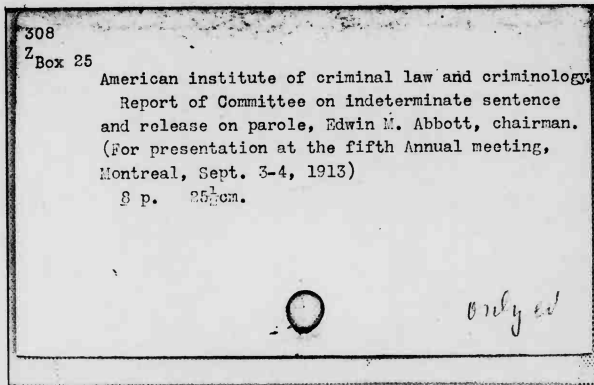
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American Institute
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Report of Committee
ON
Indeterminate Sentence and Release on Parole

EDWIN M. ABBOTT, Chairman

[For Presentation at the Fifth Annual Meeting, Montreal, Sept. 3-4, 1913]

1922-2-11/16-03-03

INDETERMINATE SENTENCE AND RELEASE ON PAROLE.

(Report of Committee F of the Institute.)

EDWIN M. ABBOTT, Chairman.

During the past winter and spring, the legislatures of most of the states of the Union have been in session, and as a result, great impetus has been given to the movement to make uniform throughout the United States the system of indeterminate sentence, probation and parole. Many states which have successfully used the probation and parole system have added the indeterminate sentence to their criminal code, while others, viewing the success of this new system of penology which has proved so advantageous both to the individual and the general public, have fallen in line and enacted legislation covering one or all of these subjects.

Again, other states have amended existing laws and burdensome conditions which have heretofore been placed upon paroled prisoners. These have been brought within more common-sense lines to the advantage and general welfare of all concerned.

The question of independent boards of parole has also been seriously considered, and the trend now is to divorce entirely from the other machinery of the law the care and control of prisoners. This is undoubtedly a step in the right direction, and the committee feels that too much emphasis cannot be placed upon this phase of the parole laws. Those having charge of paroled prisoners should be entirely divorced from all other branches of government. It is a separate and burdensome duty and needs men and women carefully prepared and fitted for this onerous work.

Another subject which has received careful attention has been the extending of the parole system to life prisoners. New Jersey, Pennsylvania, Texas and Nevada have taken up this feature and other states are considering the matter.

The result of the year's work has been one of encouragement all along the line. Reports from parole officers and others having charge of the work in the various states, show no diminution in the numbers of paroled prisoners now leading law-abiding lives throughout the entire country. Nearly 80 per cent of paroled prisoners have made good and it is only through stress of circumstances where the paroled prisoner has not availed himself of the good offices of the parole officer that he has again slipped back into the pathway of crime.

The question of re-parole for those who have broken the parole conditions is being carefully considered in nearly every state. There are numerous instances in which a second parole has been afforded a prisoner who has broken parole through vicissitudes and conditions too hazardous to surmount. After another term in prison he has again been given an opportunity to prove that there is something good in him, and reports show that a number of these prisoners also have resumed their status as law-abiding citizens.

In the state of Rhode Island the general assembly authorized a commission to consider the question of revision of the criminal laws of that state, and they are ready with a report for the next session of the legislature of 1914. They recommend the indeterminate sentence and parole system for their state. An act has been drafted creating a board of parole consisting of the governor, the attorney general, the presiding justice of the Superior Court, the agent of state charities and corrections, and the warden of the state prison. Whenever the governor is unable to attend any meeting, the lieutenant-governor shall act in his place, and whenever the presiding justice of the Superior Court is unable to attend, he shall designate some other justice of the Superior Court to attend in his place. The full control of prisoners is confided to this board of parole, and all prisoners serving sentence at the time this act becomes operative, shall be eligible for parole—three-fifths of the term being computed as the minimum sentence.

It is confidently expected that this act will become a law.

In the state of Wisconsin a bill was prepared and introduced in the legislature providing for the indeterminate sentence. The State Board of Control did all in its power to secure its passage but the bill was defeated largely because the courts in the state made such a vigorous opposition to it. Many of the judges believed that it took from them one of the most important functions, to-wit: discretion in the sentencing of prisoners, and as a result appeared before the committee on judiciary in opposition to the bill. Present sentiment opposes such a law, but the work will go on through a process of education, and in the near future the legislature is expected to enact a law to this effect.

In North Carolina the first step has been taken towards this end. Convicts have been sentenced to work upon the public roads as a method of parole, and thus they earn a deduction of time for good conduct. This is considered a form of parole, but the committee, although perfectly sensible to the advantages of allowing all convicts in all penal institutions to work at some form of labor during con-

finement, feel that this is not parole as a method for regeneration. Under the North Carolina act the prisoners are under the control of the county commissioners, who have power to discharge prisoners after they have served the time of sentence less the number of days earned by good and faithful discharge of his duties. But after discharge, he goes his way without any further supervision.

In Pennsylvania, parole boards have jurisdiction in making rules and regulations relating to paroled prisoners. Heretofore, these boards have insisted that a sponsor be obtained by each prisoner before paroled. As a result, many worthy prisoners have been compelled to serve out the greater portion of their maximum sentence, entailing great hardship. The present legislature has curtailed this power and prescribed that where the prisoner cannot obtain a sponsor and that is the only reason for his remaining over the minimum term, then the board shall procure a sponsor for him and he shall be entitled to parole.

In the state of Georgia, the legislature is now considering an indeterminate sentence, parole and probation law drafted after the Pennsylvania act. The Prison Association of that state is using every endeavor to have such an act become a law and it is hoped to place it upon the statute books before the end of this year.

In New Jersey, the act of April 14, 1913 extends the parole system to all prisoners convicted of any offense, including those sentenced for life term, and grants parole to life prisoners after having served 15 years, if the board of parole thinks there is a probability that the applicant will live without violating the laws in the future.

In Ohio, the indeterminate sentence system has been extended to include all sentences to the penitentiary for felonies, except treason and murder in the first degree, and contains the proviso that no such term shall exceed the maximum nor be less than the minimum term provided by law for the felony of which the prisoner was convicted. The act also provides that if a flat sentence should be given by any judge, that it shall not become void, but that the person so sentenced shall serve an indeterminate sentence regulated by the minimum and maximum sentence as prescribed for the crime committed.

California has added the indeterminate sentence system to her code, making twelve months the minimum and restricting the maximum to not more than the maximum time prescribed by law. The parole board shall determine when the sentence shall terminate. The benefits of parole under this act are restricted to those "convicted for the first time."

In Missouri, a Board of Pardons and Parole has been created to

cooperate with the Governor of that state, who has heretofore had the power generally granted such a board. The entire question of parole is left to them and the members are to confine their labors entirely to this work. This is one of the independent boards created to supervise parole work, and an example of the most effective system that can be devised. They recommend to the Governor, who is not restricted in his authority along the same line, but it is their duty to receive all applications and to act upon them with such recommendation for executive clemency as they deem wise and in the best interest of all concerned.

In Texas the indeterminate sentence law has been enacted and applies to persons over 16 years of age. For all crimes except those punishable by death, the minimum is to be the minimum punishment now or hereafter prescribed by law for the said offense, and the maximum not to exceed the maximum prescribed by law. The prison commissioners and board of pardons shall have regulation of parole of prisoners subject to the approval of the governor, and the application of the system is extended to life prisoners after incarceration of 15 years.

An elaborate system of control of prisoners on parole and giving them an opportunity to terminate their parole after 12 months' good behavior is also provided in the act.

During the past year, all those interested in the indeterminate sentence, probation and parole laws have reason to feel gratified at the progress this new legislation has been making. The merciful consideration of prisoners has not been without its recompense, for justice tempered with mercy must produce beneficent results both in the individual and in the state.

Therefore, it will not be long now before the entire country will be using this method of treating prisoners, and rehabilitating them.

Three new states have been added thus far during the year to the number of states now operating under either the indeterminate sentence, probation or parole systems. These states are Maine, Nevada and Oregon. Taking the key as set forth in the report of this committee last year, these states can be grouped as follows:

APPENDIX.

Questions.

1. Who may be committed under the indeterminate sentence?
2. Provisions for maximum and minimum term.
3. Parole board.
4. Duties of parole board.
5. Regulation of petition or argument.
6. Prisoners eligible to parole.

7. Points considered in granting parole.
8. Conditions of parole.
9. What constitutes violation of parole?
10. System of arrest for violation of parole and fees attached thereto.
11. Penalty for violation of parole.
12. Conditions of final discharge of prisoners from parole.
13. How paroled prisoner is finally discharged.
14. Number of violations of parole.
15. Extent of parole system.
16. Number of prisoners now under parole.
17. Note. Miscellaneous remarks. Special provisions.

Answers.

MAINE—

- (1) Any prisoner convicted of crime.
- (2) Minimum not less than 6 months; maximum to be fixed by the judge and not to be more than that prescribed by law.
- (3) Committees of three from the executive council to act as advisory board in the matter of paroles.
- (4) Act jointly with the governor with certain exceptions where governor acts alone.
- (5) Prisoner can petition—blanks being furnished by the warden or superintendent.
- (6) Any prisoner who has served the minimum.
- (7) Upon recommendation of warden or superintendent based upon good behavior and faithful observance of rules.
- (8) Arrangements made for honorable and useful employment. Must obtain a sponsor who will execute an agreement that he will employ the prisoner or use his best efforts to obtain suitable employment for him. Bond may be required of the sponsor. Prisoners must report regularly.
- (9) Any violation of the above conditions.
- (10) Warrant of Superintendent or warden directed to any officer.
- (11) Imprisonment for the balance of the maximum term, losing the benefit of the time while on parole.
- (12) At any time board or governor decides that he is worthy of discharge.
- (13) Automatically, at the expiration of the maximum sentence or sooner if pardoned or commuted by governor.
- (14) Not given.
- (15) State system.
- (16) Not given.
- (17) The act meets with great favor. In all cases where the judge can give a life sentence, he is authorized by this act to fix a minimum and a maximum. The minimum shall not be more than one-half of the maximum. There is also a proviso that paroled prisoners shall make a written report to the warden the last day of each month to show conduct during the current month, employment, earnings and expenditures, probable postoffice address and place of employment for the coming month.

NEVADA—

- (1) Any person convicted of any violation for which no fixed period of confinement is imposed by law.
- (2) Minimum term not less than the shortest term fixed by law; maximum term not greater than the longest term fixed by law.
- (3) Board of parole commissioners composed of governor, justices of the Supreme Court and attorney general.
- (4) To consider all applications, grant or refuse parole, enforce requirements of parole, re-arrest and revoke.
- (5) Application must be made by the prisoner or his attorney with notice to the district judge and the district attorney.

(6) All prisoners, including life prisoners who have served 7 calendar years.

(7) Discretion of the board.

(8) Must report once a month; must not leave the state without permission and obey the parole conditions.

(9) Any violation of the above requirements.

(10) Any officer authorized by law.

(11) Imprisonment for the balance of the maximum term.

(12) At any time board decides.

(13) Automatically at the expiration of the maximum sentence unless otherwise commuted or pardoned.

(14) Not given.

(15) State system.

(16) Not given.

(17) Giving general satisfaction. When prisoner is paroled the board have authority to provide him with funds sufficient to aid him in securing employment. He cannot use any of these funds for attorney's fees and attorneys are prohibited from accepting or receiving any portion of said money for services.

OREGON—

(1) Any person convicted of crime sentenced to the penitentiary.

(2) Court shall fix the maximum and minimum within the limitations prescribed by law.

(3) Parole board consisting of three residents of the state, one of whom must be the superintendent of the penitentiary, appointed by the governor to serve at his pleasure.

(4) They shall investigate all cases where prisoners are confined in the penitentiary and report to the governor with their recommendation; to make such rules and regulations as they think necessary.

(5) No petition required. The superintendent of the penitentiary recommends.

(6) All prisoners having served minimum and in good standing.

(7) Prisoner's general demeanor, good conduct at the penitentiary and information regarding circumstances likely to surround him if paroled.

(8) Faithful observance of the conditions of parole.

(9) Any infraction of the parole regulations and rules.

(10) Any sheriff or officer of the city or official or employee of the penitentiary; no fees.

(11) Must serve the balance of the unexpired maximum term, the time during which prisoner was out on parole not to be deemed part thereof.

(12) A discharge by the governor, a pardon by the governor or serving out the maximum on parole.

(13) Automatically or on action by the governor.

(14) Not given.

(15) General.

(16) Not stated.

(17) This act is giving general satisfaction. A proviso has been made that any person who has on two prior occasions been sentenced to serve a term in any penitentiary or reformatory, shall not be entitled to the benefits of parole, but shall be sentenced for a definite term of years; any person who has on one prior occasion been sentenced to serve a term in any penitentiary or reformatory shall only be entitled to parole after he shall have served a term of years equal to twice the minimum penitentiary penalty.

The judge of any court is empowered to parole any person convicted of crime before such person is committed to serve the sentence for the crime.

**END OF
TITLE**